

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 10 OF 2019
[@ SPECIAL LEAVE PETITION (CRL.) NO. 5307 OF 2018]

CENTRAL BUREAU OF INVESTIGATION

Appellant(s)

VERSUS

NAND RAM SHRILAL MEENA & ANR.

Respondent(s)

O R D E R

1. Leave granted.

2. Heard the learned counsel appearing for the parties at length.

3. It is a case where the CBI has filed the chargesheet under Sections 7, 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988 read with Section 120B of IPC against the accused persons.

4. An application was filed for discharge under Section 227 of Cr.P.C. before the trial court. The Special Judge, CBI, in Special Case No. 8 of 2012 passed an order on 23.05.2014 rejecting the application for discharge. The High Court set aside the order and has observed that the telephonic conversation is vague and one-sided. Apart from that, the High Court has also observed that it was mentioned in the chargesheet that an amount of

Rs.1,25,000/- was paid to the accused as bribe in the first week of December, 2008 through one Bhupendrasinh Padhiyar. Even if there was some reference of some transactions in the telephonic conversation, that is not conclusive to infer that the accused has demanded any amount as bribe. The telephonic conversation as to the amount was from one end.

5. It has also been observed by the High Court that the trial cannot be allowed to continue merely on the opinion of the Investigating Agency that the accused has committed offence as alleged in the chargesheet.

6. Being aggrieved by the impugned order passed by the High Court, the CBI is before this Court in the appeal. We have heard the learned counsel appearing for the parties and gone through the order passed by the learned Special Judge, CBI and the material on record.

7. The trial court has pointed out the material regarding demand of illegal gratification of Rs. 1.5 Lakhs from the complainant and a sum of Rs. 1.25 Lakhs which had been paid. The accused-respondent in collusion with Bhupendrasinh Padhiyar demanded the remaining amount of Rs. 25,000/- and threatened the

complainant. Thereafter, a trap was laid and the complainant was sent with the shadow witness. The complainant met the accused at 1700 hours. The conversation was recorded in the digital recorder planted on the complainant. The complainant along with the shadow witness visited the EPF Office at Vadodara and made an entry in the Visitors' Register to meet the accused. Thereafter, Bhupendrasinh Padhiyar, co-accused, told the complainant that he should pay the remaining amount of Rs. 25,000/- then and there. The complainant replied that he would pay it either in the evening or at night. It was decided that the amount shall be given to the accused Bhupendrasinh Padhiyar. The entire conversation was recorded. Thereafter, a trap was laid. The complainant, along with the shadow witness, went to the office of the accused Bhupendrasinh Padhiyar and the tainted amount was accepted and recovered from Accused No.2 - Bhupendrasinh Padhiyar. A telephone call was made by Bhupendrasinh Padhiyar from his mobile, being Mobile No. 9825044649 to the mobile number of the accused-A1 at Mobile No. 9429429469. The whole conversation was recorded. This was established that the amount was accepted by accused - Bhupendrasinh Padhiyar for Accused A1. A spectrography test was conducted regarding the voices of both the accused persons. The trial court has

considered the other material also and thereafter, rejected the application filed by Nand Ram Meena, the respondent herein.

8. Ms. Madhavi Dewan, learned Additional Solicitor General, pointed out that a corrigendum to the chargesheet was filed indicating that there was a typographical error made while submitting the chargesheet and the date was correctly mentioned in the FIR as "December, 2009". It was wrongly mentioned as "December, 2008" due to typographical error while filing the chargesheet. It was not a stage for the High Court to go into the veracity of the evidence. It was a case supported by evidence which was triable by the court. It was not a stage of the acquittal as such. The High Court could not have appreciated the evidence. She has also taken us to the script of the telephonic conversation to argue that the High Court has committed an error in drawing the wrong conclusion from the same.

9. The learned counsel appearing for the respondent has made an attempt to infer from the conversation that has been recorded that it falls short of making a demand and in the chargesheet filed, the date of payment of bribe has been mentioned as "December, 2008". It was ex-facie incorrect and there was no

possibility of conviction as such and the accused has been rightly discharged by the High Court.

10. Without making any comments on the merits of the case, considering the material on record that has been considered by the trial court while rejecting the application under Section 227 Cr. P.C. we find that the High Court has acted perversely in relying upon the typographical error which was made in the chargesheet, whereas the correct date mentioned in the FIR was ignored. The corrigendum filed by the CBI before the trial court has made the aforesaid clear, that has also not been taken into consideration by the High Court. The order passed by the learned Special Judge, CBI was absolutely proper and the High Court has exceeded its jurisdiction in deciding the case on merits while deciding the discharge application. The conversation has also not been properly appreciated by the High Court that has to be considered in the other facts and circumstances of the case and the material on record. It was not a stage where the High Court should have examined the merits of the aforesaid conversation and in our considered opinion, the High Court has not even derived the correct inference from the said script of conversation. Be that as it may, we are not commenting finally on the aforesaid aspect as that

may prejudice the case of the accused. In what perspective and circumstances the conversation was made and its value have to be considered by the trial court after recording the evidence. It is not the case where the accused could have been discharged.

11. Thus, we have no hesitation in setting aside the order passed by the High Court and restoring the order passed by the trial court. Since the trial has been lingered on unnecessarily, we direct the trial court to conclude the same positively within one year. The appeal is, accordingly, allowed.

.....J.
[ARUN MISHRA]

.....J.
[NAVIN SINHA]

New Delhi;
January 03, 2019.

ITEM NO.42

COURT NO.5

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Cr1.) No. 5307 of 2018

CENTRAL BUREAU OF INVESTIGATION

Petitioner (s)

VERSUS

NAND RAM SHRILAL MEENA & ANR.

Respondent(s)

Date : 03-01-2019 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Ms. Madhavi Divan, ASG
 Mr. Nachiketa Joshi, Adv.
 Mrs. Suhasini Sen, Adv.
 Mr. Arvind Kumar Sharma, AOR

For Respondent(s) Mr. Vivek Paul Oriel, Adv.
 Mr. Vibhuti Sushant Gupta, Adv.
 Mr. Ramnaresh Yadav, Adv.

Ms. Hemantika Wahi, AOR
Ms. Jesal Wahi, Adv.
Ms. Vishakha, Adv.
Ms. Parul Luthra, Adv.

Mr. Satish Pandey, Adv.
Mr. Ram Naresh Yadav, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed
of.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)